

## **325373 - Ruling on the bank buying a piece of land then selling it to a customer when the customer owns a share of the land**

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### **the question**

I want to buy a piece of land by instalments, but the owner of the land refused, so I made a deal with a real estate company, of which I am one of the owners, to buy this land for cash, after I asked for real-estate financing from an Islamic bank to buy this land. My question is: is this type of transaction permissible?

### **Detailed answer**

If you are one of the owners of the real estate company that bought the land, then you have become a partner in ownership of that land. If it is possible for the bank to purchase the land with the exclusion of your share thereof, then sell it to you by instalments for a higher price (muraabahah), then there is nothing wrong with that.

So if your share is 10% of the land, for example, and the bank buys the rest – i.e., 90% – then sells it to you by instalments for a higher price (muraabahah), that is the safest way of doing this transaction.

If there is no alternative to buying the entire piece of land, then the second option is for you to pay in advance the amount equal to your share of the land to the bank, so that the payment in instalments will be for the price of the remainder of the land.

The third option is for the bank to purchase the entire piece of land, then sell it to you by instalments for a higher price (muraabahah). This is permissible if your share of the land is less than half, but to be on the safe side, your share should not exceed one third.

It says in *ad-Daleel ash-Shar'i li't-Tamweel al-'Aqaari bi'l-Muraabahah*, by Bank al-Bilaad (p.49):

Selling by instalments for a higher price (muraabahah) in the case of property of which the customer already owns a share:

The customer of the bank requested finance to purchase property by instalments for a higher price (muraabahah), and the customer chose a property of which he already owns a share, so that the bank will buy it for cash then sell it to the customer by instalments. What is the ruling?

The ruling is: it is permissible for do a muraabahah contract to purchase property of which the customer already owns less than half.

But if the customer's share is half or more, then a muraabahah contract is not permissible in that case.

Note: there are other solutions that are safer from a shar'i point of view, in order to avoid a matter concerning which there is a difference of scholarly opinion. These solutions include the following:

1.. The customer can pay the equivalent of his share of the property in cash up front, then payment in instalments to the bank may be made for the shares that the customer does not already own.

2.. The bank may buy the share that the customer does not own, then sell it to the customer. In this case, the financing will be only for the share that the customer does not already own. End quote.

It says in a footnote on p. 49: This matter is controversial, and some other scholarly views do not allow what is mentioned above regarding this matter if the customer's share is greater than one third. So it is better to avoid anything greater than one third, so as to avoid a matter concerning which there is a difference of scholarly opinion.

To explain the fatwa concerning this issue: if the land is your property, then it is haraam for you to go to the bank and ask them to buy it and sell it back to you by instalments (muraabahah), because this is an unlawful trick that leads to a riba-based loan. The reality

of the matter is that the bank will pay one million, for example, in order to take back 1.2 million, for example, and there is no item that moves from the seller to the bank to you (that is, there is no third party); rather the item being sold is the land that you own, thus this is a trick for the purpose of a riba-based loan.

If you are a part-owner of the land, then the smaller your share of it is, the further removed the matter is from trickery and riba, so it may be overlooked if you own one third, but your share should not be any greater than that.

And Allah knows best.